



Ra'id Shanana v. Abdullah Ghaleb Abdullah Barghouti

**The Military Court
Judea
-Transcript-**

Court hearing dated: November 9, 2003 Before the Presiding Judge: Lieutenant Colonel Natanel Benishu
Judge: Lieutenant Colonel Hanan Rubinstein
Judge: Major Eli Bar-On

Prosecutor: Captain Ra'id Shanana
Defense Counsel: Adv. Basoul Tawfik – Present

**Defendant: Abdullah Ghaleb Abdullah Barghouti Identity No.: 30300028 / Russian
Compound – Present**

Stenographer: Corporal Sivan Kadmi
Interpreter: Corporal Karim Salameh and Sergeant Naaman Madi

The Presiding Judge opens the session and identifies the Defendant.

Course of the Hearing

Prosecutor: I shall ask to file the police statements of the Defendant.

Decision

The statements are admitted and marked as P/1.

Handed down and announced this day, November 9, 2003, in public and in the presence of the parties.

Judge

Presiding Judge

Judge

Defense Counsel: No evidence for sentencing.

Prosecutor summates: Words fail me in describing the acts of the Defendant. The Defendant was born 31 years ago in Kuwait; from there he came to Jordan in 1991. During 1994-1996, he worked in South Korea and in 1996 returned to Jordan. He arrived in the Area only in 1999. We do not know why the Defendant chose to move to live here. We do not know what caused the Defendant's decision to act to kill[...]

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[...]innocent people. No logical explanation can be found or conceived of for a 30-year-old man to arrive at a place that does not belong to him and start a murder spree. Since the creation of the Military Courts, nobody has stood trial before them after having caused the intentional deaths of 66 civilians – men, women and children. The Defendant dispatched suicide terrorists to buses, clubs, cafés, restaurants or to Israel's streets in general, sending them with a single purpose, of sowing death and pain. More than 500 people were injured in attacks that he had carried out. Sixty-six people were murdered. Just to think about such a number of people, I do not think that it is possible to seat sixty-six people in this courtroom. That is the number of people whose lives the Defendant has taken. We are accustomed to calling such acts an attack, murder, causing intentional death, but no description that mankind has invented throughout its years of existence can match what the Defendant has done. What motivated him? The wish for revenge, but as one can learn from his statements, none of the victims had done anything to him. The wish to "liberate" the land to which he did not belong? The wish to become a martyr and earn himself a place in heaven – is that the way to earn a place in heaven? The Defendant, an adult who is not at all stupid, and who may even be called intelligent, a professional, chose to use all of the knowledge that he had accrued and all of his talents in order to kill. Let there be no mistake; the Defendant did not go out to kill by himself; it was not that the Defendant decided to take a weapon and fight; it is not that the Defendant decided to take an explosive device by himself and explode in Israel; the Defendant opted to hide behind the backs of others and send them to their deaths, too. Sending his fellow countrymen to their deaths, only to cause the deaths of as many Jews as possible. The indictment describes the life story of the Defendant during the two years that preceded his arrest. It is true that the indictment describes facts that may shock any human being. But what is shocking more than everything else is the long list of victims and casualties. People and families who every day relive the pain and loss and for whom nothing can restore the situation to what it was before. The Court has already stated in previous verdicts that the Court is unable to bring back to life the victims and spare the casualties and their families the suffering and pain; on the other hand, the Court is bound to act in accordance with law. The Prosecution states that doing so would show the Defendant that we will not descend to his level and we will not act in the way in which he did. As was said in Criminal Appeal 336/61, Adolf Eichmann v. the Attorney General: "Just as there is no name in human language to call acts such as the acts of the Appellant, there is no punishment that can be meted out by humans that can correspond with the severity of the acts of the Appellant". These words apply to our case as well. The Military Prosecution asks the Court to sentence the Defendant to one separate term of life imprisonment for each of the murders and a separate term of life imprisonment for the remaining offenses. In other words, the Prosecution is petitioning for a sentence of 67 cumulative terms of life imprisonment.[...]

[Stamp] P 7: 18

[...]The number that I have specified cannot settle with the way in which we live, cannot settle with any of the principles underlying human society, but this sentence will serve to express deep revulsion towards the acts of the Defendant and to emphasize the human legal principles by which human society in general and Israeli society in particular lives.

Defense Counsel summates: I agree with the Prosecutor that the Courts in Israel, military and civilian alike, have not seen a case such as that of the Defendant who is standing before us. I have thought and pondered again concerning the motives of the Defendant and I could not reach a clear conclusion as to why he acted in the way he did and for what purpose he wishes to plead for his own sentencing.

Defendant in his last address: I refuse to stand and therefore I shall not talk. I will stand. Concerning what the Prosecutor said, that I am a 31-year-old adult, a person who is half of my age is old enough to know that there is an occupation. If he wants to hear the answers to his questions as to the reason for my leaving Kuwait, it is that the American forces entered Kuwait and punished me and expelled me. But concerning my term of residence in Jordan, this was a transitional period and concerning the questions[...]

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[...]of the Prosecutor for my being here on my own land, I wish to ask why there are a million Russian emigrants who are here on this land despite them having no right to be here. I came here because this is my home; but concerning the questions as an educated person who left from outside Israel and returned with knowledge in order to carry out attacks, when the Prosecutor knows that any person who has gone abroad and seen how people behave in the free world, he would wish to bring that freedom with him to his land on which he lives. Before the Intifada [uprising], I was an ordinary citizen and I worked as an engineer, but after the Intifada, when I saw the arbitrary murders and the illogical revenge against the Palestinian people, I decided that I would bring freedom despite the occupation and I used all of my power and knowledge to liberate my homeland. I do not regret any of the acts that I have carried out, and the Court knows that I have taught dozens of engineers to do the work better than me. In the future you will see cases that are ten times greater than my case. I promise that. Concerning the attacks that you contend that I carried out, they started when the chain of eliminations started. When you assassinated Jamal Mansour and Jamal Salim, I carried out my first attack at the Sbarro Restaurant in response to the massacre that happened in Nablus. In response to the attack, you decided to assassinate members of the Hassin Abu Kawik family. After that, I decided to respond to that assassination at the Moment Café in response to the act that you committed. When you assassinated leader Abu Hunoud and Aiman Halwa, I carried out the attack in Rishon le Zion. After Ariel Sharon the terrorist gave an order to bombard the home of Salah Shada, I carried out the attack in the university; it is because you crossed the red line by bombarding civilians using an aircraft. When you denied my people gas and fuel in Jenin and Ramallah, I attempted to detonate the central station in Gilot but regrettably I was unable to, despite wanting this attack to succeed and destroying everything surrounding that area. And in order for me to carry out this dream, I tried to carry out the same attack two weeks later. When you disrupted transport between the occupied Palestinian towns, I started a chain of attacks against the trains and public transport in Israel. You are those who forced me to carry out these attacks, and you must know that I do not like to murder and the number that the prosecution stated, 66 victims, is a small number relative to the thousands whom Sharon has murdered. The law that Hammurabi laid down many years ago was an eye for an eye. I promise you that the Alqassam Brigades are going to even out the numbers. If you want to prevent this, you must leave my land and go back to where you came from. But murder, murder, murder. And I hope that you do not ask yourselves too much about the things that I have carried out because you shall see much more. A tip to the People of Israel is that Ahmed Yassin has promised that we shall tear apart the State of Israel by 2023, and I guarantee to you that this will happen earlier. If you did not start a journey of fair[...]

[Stamp] P 7: 19

[...]and just peace, the Hamas, months ago, committed to a ceasefire, but Ariel Sharon made no commitment and violated the ceasefire and made a mistake. In my opinion, the Hamas is going to give a conditional ceasefire as soon as possible, but the Alqassam Brigades will keep their fingers on the trigger. You must know that we shall start firing immediately if he just violates the next ceasefire. I promise you that the response will be swifter than you expect. At the end of the day, I say that it is difficult for me to understand that you are trying me in a session on the land of one of my grandparents or on the land of one of my uncles and how it is that the murderer is punishing the victim.

Decision

The sentence will be handed down on December 21, 2003, at 1:00 p.m.

Handed down and announced this day, November 9, 2003, in public and in the presence of the parties.

Eli Bar On 54678313-3380/03

Judge

Presiding Judge

Judge

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[Stamp] P 7: 19 [continued]

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[Stamp] P 7: 20

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MARK I. SOKOLOW, *et al.*,

Plaintiffs,

vs.

THE PALESTINE LIBERATION
ORGANIZATION, *et al.*,


Defendants.

No. 04 Civ. 00397 (GBD) (RLE)

DECLARATION OF RINA NE'EMAN

Rina Ne'eman hereby certifies as follows:

1. The attached translation from Hebrew to English is an accurate representation of the document received by Rina Ne'eman Hebrew Language Services, to the best of my knowledge and belief. The document is designated as P7: 17-20.
2. I am a professional translator with a B.A. in International Relations from the Hebrew University of Jerusalem (Israel) and 30 years of translation experience. I am fluent in Hebrew and English, and I am qualified to translate accurately from Hebrew to English.
3. To the best of my knowledge and belief, the accompanying text is a true, full and accurate translation of the Hebrew-language document bearing the bates number, P7: 17-20.



Rina Ne'eman

ss.: New Jersey

On the [^{28th}] day of February, 2014 before me, the undersigned, personally appeared Rina Ne'eman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is signed to this Declaration and acknowledged to me that he executed the same in his capacity, and that by his signature on this Declaration, the individual executed the Declaration.

Sworn to me this
^{28th} day of February, 2014

HALA Y. GOBRIAL
Notary Public

HALA Y GOBRIAL Notary Public State of New Jersey My Commission Expires Apr. 18, 2017 I.D.# 2419990

ראיד שנאן נ' עבדאללה ע'אלב עבדאללה ברגותי

**בית המשפט הצבאי
י ה ו ד ה
- פ ר ו ט ו ק ו ל -**

דיון בית משפט מיום: 09/11/03 בפני אב"ד: סא"ל נתנאל בנישו
שופט: סא"ל חנן רובינשטיין
שופט: רס"ן אלי בר – און

תובע: סרן ראיד שנאן
סניגור: עו"ד בסול תאופיק – נוכח

נאשם: עבדאללה ע'אלב עבדאללה ברגותי ת.ז.: 30300028 / מגרש הרוסים – נוכח

רשמת: רב"ט סיון קדמי
מתורגמן: רב"ט כרים סלאמה וסמל נעמן מאדי

אב"ד פותח את הישיבה ומזהה את הנאשם

מהלך הדיון

תובע: אבקש להגיש את אמרותיו המשטריות של הנאשם.

ה ח ל ט ה

האמרות מתקבלות ומסומנת תמ"1.

ניתן והודע היום, 09/11/2003, בפומבי ובמעמד הצדדים.

שופט

אב"ד

שופט

סניגור: אין ראיות לעונש.

תובע מסכם: אין מילים כדי לתאר את מעשיו של הנאשם. הנאשם נולד לפני 31 שנה בכווית, משם הגיע בשנת 91' לירדן. בין השנים 94'-96' עבד בדרום קוריאה ובשנת 96' חזר לירדן. רק בשנת 99' הגיע לאיזור. אנו לא יודעים למה בחר הנאשם לעבור להתגורר כאן. אנו לא יודעים מה גרם להחלטתו של הנאשם לפעול לקטילתם של

ԼՆԷԼ ԴՈՒՆ Ե՛ ԿԵԼՆԿՆԱԿ ԴՈՆԵ ԿԵԼՆԿՆԱԿ ԵԼԻՍԷ:

ראיד שנאן נ' עבדאללה ע'אלב עבדאללה ברגותי

התובע להמצאותי כאן באדמה שלי, אני רוצה לשאול למה יש מליון מהגרים רוסים שנמצאים כאן על האדמה למרות שאין להם זכות להיות פה. אני באתי לפה כי כאן הוא ביתי, אבל בקשר לשאלות כבן אדם משכיל שיצא מחו"ל וחזר עם הידע בכדי לבצע פיגועים, שהתובע ידע שכל בן אדם שיצא לחו"ל וראה איך מתנהגים בעולם החופשי, הוא ירצה להביא את החופשיות הזו לעמו ולאדמה שהוא חי בה. לפני האינתיפאדה הייתי אזרח רגיל, ועבדתי כמהנדס אבל אחרי האינתיפאדה כאשר ראיתי את מעשי הרצח השרירותיים והנקמה הלא הגיונית מן העם הפלסטיני החלטתי שאני אביא לחופש למרות הכיבוש ואני השתמשתי בכל הכוח והידע בכדי לשחרר את מולדתי. אני לא מתחרט אפילו על אחד מהמעשים שביצעתי וביהמ"ש ידע שאני לימדתי עשרות מהנדסים שיעשו את העבודה יותר טוב ממני. אתם תראו בעתיד תיקים שהם פי עשר מתיקי. אני מבטיח זאת. בקשר לפיגועים שאתם טוענים שביצעתי, הם התחילו כשהתחילה שרשרת החיסולים. כשהתנקשתם בחייהם של ג'מאל מנצור וג'מאל סלים, אני ביצעתי את הפיגוע הראשון שלי במסעדת סבארו כתגובה על הטבח שקרה בשכם. כתגובה לפיגוע החלטתם להתנקש בבני משפחת חסין אבו קוויק. אחרי זה החלטתי להגיב על ההתנקשות הזאת בבית הקפה מומנט כתגובה על המעשה שעשיתם. כשהתנגשתם במנהיג אבו הנווד ואיימן חלווה עשיתי את הפיגוע בראשון לציון. אחרי שאריאל שרון הטרוריסט נתן פקודה להפגין את הבית של סלאח שחאדה אני ביצעתי פיגוע באוניברסיטה וזאת מפני שעברתם את הקו האדום והפגזתם אזרחים במטוס. שהפסקתם את הגז והדלק מבני עמי בגנין ורמאללה ניסיתי לפוצץ את התחנה המרכזית בגלילות ולצערי לא הצלחתי וכמה רציתי שהפיגוע הזה יצליח וישמיד את כל מה שמסביב לאיזור שם. וכדי שאני אבצע את החלום הזה ניסיתי לעשות שוב את אותו הפיגוע אחרי שבועיים. כשקטעתם את התחבורה בין הערים הפלסטיניות הכבושות התחלתי בשרשרת של פיגועים נגד הרכבות והתחבורה הציבורית בישראל. אתם אלה שאילצתם אותי לבצע את הפיגועים האלה ושתדעו לכם שאני לא אוהב לרצוח והמספר שנקבה בו התביעה, 66 נרצחים זה מספר קטן יחסית לאלפים שרצח שרון. החקיקה שחיקק חמורבי לפני הרבה שנים הייתה עין תחת עין. אני מבטיח לכם שגדודי אלקאסס הולכת לעשות שוויון בין המספרים. אם אתם רוצים למנוע זאת אתם צריכים לעזוב את האדמה שלי ולחזור לאיפה שבאתם. אלא רצח, רצח, רצח. ואני מקווה שלא תשאלו את עצמכם הרבה על הדברים שאני ביצעתי כי אתם תראו עוד הרבה. עצה לעם ישראל היא שאחמד יאסין הבטיח שאנו נפרק את מדינת ישראל עד שנת 2023 ואני מתחייב בפניכם שזה יקרה קודם לכן. אם לא התחלתם במשא שלום הוגן וצודק החמאס לפני חודשים התחייב בהודנה אבל אריאל שרון לא התחייב והפר את ההדנה ועשה טעות. לפי דעתי החמאס הולך לתת הודנה מותנית בהקדם האפשרי, אבל גדודי אלקאסס ישאירו את אצבעותיהם על ההדק. תדעו לכם שאנו נתחיל לירות מיד רק אם הוא מפר את ההודנה הבאה. אני מבטיח לכם שהתגובה תהיה מהירה יותר ממה שאתם מצפים. בסופו של דבר אני אומר, קשה לי להבין שאתם שופטים אותי בישיבה באדמה של אחד מהסבים שלי או באדמה של אחד מדודי ואיך זה שהרוצח מעניש את הנרצח.

ה ח ל ט ה

גזר הדין יינתן ביום 21/12/03 בשעה 13:00.

ניתן והודע היום, 09/11/2003, בפומבי ובמעמד הצדדים.

שופט

אב"ד

אלי בר און 54678313-3380/03

שופט

ראיד שנאן נ' עבדאללה ע'אלב עבדאללה ברגותי

נוסח מסמך זה כפוף לשינויי ניסוח ועריכה

בעניין עריכה ושינויים במסמכי פסיקה, חקיקה ועוד באתר נבו – הקש כאן